

STATE OF WASHINGTON



OFFICE OF  
INSURANCE COMMISSIONER

**REPORT OF**

**TARGET MARKET CONDUCT EXAMINATION**

**OF**

**AMERUS LIFE INSURANCE COMPANY**

**DES MOINES, IOWA**

**AS OF**

**DECEMBER 31, 1996**

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April 19, 2000

The Honorable Deborah Senn  
Washington Insurance Commissioner  
Olympia, Washington 98504

Dear Commissioner Senn:

Pursuant to your instructions and in compliance with the statutory requirements of RCW 48.03.010, I have examined the corporate affairs and market conduct of:

AmerUs Life Insurance Company

Des Moines, Iowa

hereafter referred to as "the Company" or "AmerUs". The following report is respectfully submitted.

#### Scope of Examination

The examination was performed in compliance with the provisions of Washington insurance laws and regulations. The market conduct review followed the rules and procedures promulgated by the Office of the Insurance Commissioner (OIC) and the National Association of Insurance Commissioners (NAIC). The examination covered the period of January 1, 1992 through December 31, 1996. The scope of this examination was limited to Marketing and Sales Practices, Complaint Handling and Replacement Activity.

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#### **TABLE OF CONTENTS**

##### **PAGE**

2	Salutation
4	Examination Report Certification
5	Foreword
6	History of the Company
7	Marketing Plan
8	Advertising
	Agent Activity

10	Agent Marketing & Training Materials
12	Audits
13	Agent Contracts
14	WA Agent Oversight & Disciplinary Procedures
14	Agent Licensing & Appointments
16	Complaints
17	Replacement Procedures
20	Policy File Review
20	Regulatory & Legal Actions
22	Summary
23	Instructions
24	Recommendations
25	Appendices

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## **EXAMINATION REPORT CERTIFICATION**

This examination was conducted in accordance with the Office of the Insurance Commissioner and National Association of Insurance Commissioners market conduct examination procedures. This examination was performed by Leslie Krier and Alan A. Hudina, who participated in the preparation of this report.

I certify that the foregoing is the report of the examination, that I have reviewed this report in conjunction with pertinent examination work papers, that this report meets the provisions for such reports prescribed by the Office of the Insurance Commissioner, and that this report is true and correct to the best of my knowledge and belief.

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Pamela Martin

Chief Market Conduct Examiner

Office of the Insurance Commissioner

State of Washington

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## **FOREWORD**

This target market conduct examination report is by exception and additional practices, procedures and files subject to review during the examination were omitted from the report if no improprieties were indicated. Throughout the report, where cited, RCW refers to the Revised Code of Washington and WAC refers to the Washington Administrative Code.

## **SCOPE**

### **SITUS**

This examination was a Level Two Target Market Conduct Examination conducted off site.

### **TIME FRAME**

The examination covered the Company's operations for the period January 1, 1992 through December 31, 1996.

## **Regulatory Standards**

Samples are tested for compliance with standards established by the OIC. In some cases, all records will be examined in lieu of a sample. The tests applied to sampled data will result in an error ratio, which determines whether or not a standard is met.

If the error ratio found in the sample is, generally, less than 5%, the standard will be considered as "met." The standard for agent licensing and appointment is not met if any violation is identified.

For those standards that look for the existence of written procedures, or a process to be in place, the standard will be met based on the examiner's analysis of those procedures or processes. The analysis will include a determination of whether or not the company follows established procedures.

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## **History of the Company**

## **Territory of Operations**

# Management

AmerUs Life Insurance Company (AmerUs) was admitted to the State of Washington on June 30, 1996. AmerUs is the result of a merger between Central Life and American Mutual Life Insurance Company on December 31, 1994. Central Life simultaneously changed its name to American Mutual Life Insurance Company. The Company was renamed AmerUs Life Insurance Company effective June 30, 1996. The company is licensed in Washington D.C. and all states except Connecticut, Maine, New Hampshire, New York and Vermont.

*Subsequent Event: Since the examination, the Company has gained authority to sell life insurance and annuities in Connecticut, Maine and Vermont.*

Central Life was incorporated on February 18, 1896. It was originally incorporated as a mutual company under the name Central Life Assurance Society of the United States. It was re-organized as a stock company in 1902. In 1919 the company was mutualized. The name was shortened to Central Life Assurance Society (Mutual) in 1924 and to Central Life Assurance Company in 1950.

American Mutual Life was incorporated on December 27, 1897. The Company was licensed as a fraternal organization under the name Brotherhood of American Yeomen. It was transformed into a legal reserve mutual life insurance company in 1932, by amendment of its articles of incorporation, as Yeomen Mutual Life Insurance Company. It adopted its present name in 1938.

AmerUs is licensed for life and disability insurance in Washington and has authority for annuity products. Their taxable premium volume in 1996 in Washington was \$10,445,680. As of the examination date they had 178 agents appointed in Washington.

A Board of Directors governs the Company. The members are:

Roger K. Brooks	Maureen M. Culhane
Thomas C. Godlasky	Sam C. Kalainov
Ralph W. Laster, Jr.	Gary R. McPhail
John A. Wing	

For operations in Washington, the Company's administrative records are maintained at the

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AmerUs Life Building in Des Moines, Iowa. Policy files are stored on microfiche, in paper files or as electronic image files depending on the prior company.

Depending upon the type of policy and originating company, administrative records may utilize four different systems. These systems are Vantage, ALIS, Life 70 and Leverage. These systems are housed in their Data Center located in Des Moines, Iowa.

### **Affiliates and Subsidiary Companies**

AmerUs Life Holdings, Inc. (ALHI) is the holding company and parent of AmerUs Life Insurance Company, American Vanguard Life Insurance Company, Delta Life Corporation and AmVestors Financial Corporation. AmVestors owns American Investors Life Insurance Company and Financial Benefit Life Insurance Company. ALHI is engaged in marketing, underwriting and distributing a wide range of life insurance and annuity products through these companies. AmerUs is also involved in a joint venture company which owns Ameritas Variable Life Insurance Company (AVLIC). As none of these entities have direct ties to AmerUs Life Insurance Company, they were not included in the scope of this examination.

## **Marketing Plan**

Marketing Plans for AmerUs Life were reviewed from 1992 to 1996. The merged companies wrote the marketing plans. The plans reviewed were a segment of an overall Strategic and Operating Plan. Years 1992 through 1995 did not present any significant findings.

The 1996 Business Plan references a projection of "\$75 million of internal rollovers." When asked for additional information regarding this figure and procedures, the Company stated that the bulk of the internal rollovers were expected to come from an active marketing program to retain annuities that were nearing the end of the surrender charge period (Annuity Asset Retention Program). The annuitant was contacted with an offer to exchange their existing annuity for an Advantage Annuity. Any existing surrender charge on the old annuity would be waived, and the interest rate on the new annuity would include a bonus interest rate in the first contract year. The annuitant was advised that new surrender charges would apply to the Advantage Annuity. The Company did advise its agents that any business submitted under this program would be considered replacement and that all state replacement requirements would have to be fulfilled. If the annuity being replaced was in the last surrender charge period, the agent received 50% of the usual first year commission. Full commissions were paid on any increased funds added to the annuity. The Company stated that the actual production for internal rollovers for 1996 was \$34,460,000, much less than originally anticipated.

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**STANDARD 1 – The marketing plan does not contain references to vanishing premium policies, replacement programs, exchange programs or other indicators of possible churning activity.**

**RESULT: The Company met this standard.**

## **Advertising File/Illustration Diskettes**

### **Advertising**

The Company's advertising file was reviewed pursuant to WAC 284-23-090. Selected items from the advertising file were requested and provided by the Company. The advertising files contained copies of all advertising materials as statutorily defined. Numerous materials, both for agent use only and those for public dissemination were reviewed for compliance.

The Company advertising guidelines dated February 1997 were reviewed. These guidelines were a product of the Company's newly formed compliance unit. When asked for the procedures in effect prior to February 1997, the Company responded with a copy of the "Manual of Instructions for Agents" dated May 1982.

The "Manual of Instructions for Agents," Section A-7, revised June 1991, references advertising. This section of the manual states, "Agents are not permitted under any circumstances to publish anything concerning the policies or the business of the company, or of any other company, or to advertise or issue circulars of any kind, unless first submitted to, approved and authorized by the company in writing." Additionally, the Company in "The General Agent's Manual" states that, "Any item not obtained through the company must be approved in advance by the Home Office Marketing Department." The Company states that during the exam period, there were no materials submitted to the Home Office for approval. There were four (4) agency visits by Regional Vice Presidents (RVP) during the exam period. During the visits, the RVP is instructed to look for unauthorized sales material. The RVP reports do not mention review of sales materials being used. However, there were no complaints or other indicators that unauthorized sales materials were being used by agents in the State of Washington.

There were 229 individual pieces of material on the advertising list provided by the Company. Of the 229 pieces, the 18 that appeared to be related to life and annuity sales were chosen for review. The 18 items were chosen based on titles that appeared to the examiner to be pertinent to the scope of the examination.

Of special interest is the "Investment Vehicle Pyramid" form #11398 also listed as item #210 in

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the Company's "One Page Marketing Pieces and Product Brochures Catalog". This brochure was created in June 1995. It depicts a pyramid under the bold type heading "INVESTMENT VEHICLE PYRAMID." The pyramid's base consists of 5 blocks, one of

which is entitled "Life Insurance, Cash Values and Annuities." This material depicts life insurance cash values as an investment and is a violation of WAC 284-23-040(2) and (3).

This form was discontinued as of February 1996. On the index of the advertising file is the statement "shows life insurance as a possible investment...". The Company states that when they pulled the form, there were not any left in supply to be distributed. They did not put out a notification for agents to stop using the form.

### **Illustrations**

Numerous illustrations were run and reviewed relative to 48.23A RCW. No two tiered nor bonus interest situations were encountered. There were adequate disclaimers relative to projected and illustrative values and the guaranteed versus projected values were adequately identified. A bonus interest rate program was previously identified relative to the Company's Annuity Asset Retention Program; however, it was not incorporated into the standard illustration software that was available for this examination.

After running numerous illustrations, the following observations are noted:

- Changing the interest rate requires a password.
- Entering the Home Office Maintenance Menu requires a password. Numerous words were tried without gaining access.
- The edit fields only allowed changes of name, address, plan applied for, etc.
- The illustration could not be changed.
- If an interest rate is input that exceeds the maximum for the plan a red border appears with the text "The maximum rate for this plan is 8.65%". If an interest rate is input that is below the guaranteed rate, the same style of warning is triggered. Unless a rate is entered that is within the interest rate parameters, one cannot continue.
- Utilizing the print command for the illustration and then returning to edit and inputting a higher interest rate activates the same red border and text as described above.

The above changes were tried on all ten versions of the illustration software for a variety of plans and values with the same degree of success. Ample disclaimers regarding guaranteed rates and current rates are provided both in bold text in the illustration and bold columns for the guaranteed values.

*Subsequent Event: The Company began requiring the illustration be submitted with the application effective January 1997 for all states that had adopted the NAIC Model*

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*Regulation.*



**STANDARD 2 – All agent or vendor produced training materials are controlled by the Company and the Company actively audits use of these materials.**

**RESULT: The Company met this standard.**

**STANDARD 3 – The advertising file contains copies of all advertising material as statutorily defined, including copies of agent created advertising material, WAC 284-23-090 and WAC 284-23-020.**

**RESULT: The Company met this standard.**

**STANDARD 4 – Advertising materials comply with Washington Advertising Regulations, WAC 284-23-010 through WAC 284-23-080.**

**Number of advertisements 229**

**Number of advertisements reviewed 18**

**Number in violation 1**

**Percent in violation 5.5% \***

\* Per the Market Conduct Statistical Utilities program, because of the small sample size this figure is within the tolerance limits established for this examination .

**RESULT: The Company met this standard.**

## **Agent Activity**

### **Agent Marketing and Training Materials**

The Company listed 442 individual pieces of agent marketing, training and educational materials. Of these 442 pieces, 32 were chosen for review. The materials were chosen based on the examiner's perception of relevance to the scope of the examination. This selection represents 7% of the material available.

Review of the selected materials revealed the following concerning vanishing/disappearing premium agent training:

- Advanced Sales Bulletin – Disappearing Premiums (A0005632 to A0005638 (2/83) advises agents how to set up and illustrate disappearing premium policies. It does not instruct the agent to discuss the possibility that additional premiums may be due if the dividends or interest rate fall below expected values. When asked if a bulletin dated in

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1983 was still valid, the Company's response was that the materials provided to the examiners were, to the best of their knowledge, still in use during the examination period. The Company provided agents with instructions on how to run illustrations at any interest rate. The bulletin did not include a directive that the agent include a cautionary statement to prospective insureds as to the need for additional premiums if the interest rate changed. Without a cautionary statement, the illustration has the capacity or tendency to mislead or deceive and is in violation of WAC 284-23-040 (1).

- Field Update A0002574 entitled "Ignorance is Not Bliss" dated June 11, 1992 advises agents to explain what is guaranteed and what is not, provide a table of guaranteed values showing both the most that might have to be paid and the lowest value of benefits that might be received. It also advises that if illustrations are based on current rates or dividends, also provide an illustration at a lower rate and be sure the client is aware that illustrations are only projections and not predictions and are not the sole tool for picking the best or least expensive policy.
  - Advanced Sales Bulletin (A0005632) states, "In term conversions, Disappearing Premium has a big advantage: the illustration will show that the total cost for permanent coverage with Disappearing Premium will be less than the total term premiums. This will make the permanent coverage much more attractive." Making "the permanent coverage much more attractive" by using a disappearing premium sales technique has the capacity or tendency to mislead or deceive and is a violation of WAC 284-23-040 (1).
  - Sales Practices Bulletin A0005630 (undated) advises agents that since the system still generates premium notices even on vanished premium policies, that the agent should use this opportunity to contact the client to review the policy. The agent should also advise the client to write, "surrender dividends to pay the premium" on the premium notice if they wish to continue the vanishing premium option and mail the premium notice back to the Company. The stated purpose of the contact is to lessen the confusion frequently associated with vanishing premiums.
  - Page C-13 of the "Manual of Instructions for Agents" discusses details pertaining to using existing policy values to pay for a new policy. In the section entitled 'Using Dividend, Loan or Surrender Values To Pay Initial Premium on New Policy', the manual states that values from an existing policy may be used to pay the initial premium on a new policy by filling out a Policy Service Request form. The form is to be submitted with the application. This section does not discuss replacement ramifications of paying premiums for a new policy from an existing policy. The Company's position is that this is not necessary as page C-9 discusses replacement requirements. However, page C-9 does not show state specific
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replacement requirements for those situations where existing policy values are used to pay premiums on new policies.

The above items illustrate that the Company was aware of and provided instructions for agents in the use of the Disappearing/Vanishing Premium method of selling life insurance. We do not dispute that this may be a sound method to sell insurance. We are concerned that the Company did not require disclosure of the possible need for additional payments to keep the policy(s) in force if the policy(s) did not perform as illustrated.

The Company states that they use three (3) agent training programs: home office updates to the field, home office visits to the field and the annual education conferences. Two (2) publications, Class Magazine and Studio 66 Audio Tapes were identified as sources of general update information for agents. In addition, the Company provided materials from the annual education conferences during the exam period. It should be noted that only agents who produced at top levels for the company were invited at company expense to these conferences. Other agents were allowed to attend the conferences, but at their own expense. Not all agents attended the conferences. Most agents used the Class Magazine and the Studio 66 Audio Tapes.

Because most of the agent training was done through the magazine and tapes, we reviewed the index of materials available through these programs and selected seven (7) articles and two (2) tapes for review. These items were chosen based on the examiner's perception of relevance to the examination scope. The review of these materials was unremarkable.

### **Audits**

The Company states that they had regular visits to the offices in Washington during the exam period. The visits are done mainly by the RVP, who reports back to the senior sales office the results of the visit and activity within the office. The Company's documentation shows that there were visits to agencies 8/21/93, 11/16/93, 12/11/95 and 10/30/96. All of these visits appear to be combined with sales presentations to agents. In all visits, sales targets were discussed along with issues concerning agent recruitment and agent financing. Sales practices were mentioned and it was noted that no agents had any sales practice issues under review.

**STANDARD 5 – Agent communications do not encourage replacement of existing internal or external policies, special funding programs or other indicators of churning activity.**

**RESULT: The Company did not meet this standard.**

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**STANDARD 6 – Company conducts regular audits of agent activities through regular branch or agency office audits and visits.**

**RESULT: The Company met this standard.**

**STANDARD 7 – Training material for both new and existing agents in use during the examination period comply with Washington Statutes and Regulations, WAC 284-23-010 through WAC 284-23-130.**

Total Number of Training Materials	442
Pieces Reviewed	32
Pieces not in compliance	2
Percent not in compliance	6.2%**

\*\* Per the Market Conduct Statistical Utilities program, because of the small sample size this figure is within the tolerance limits established for this examination.

**RESULT: The Company met this standard.**

### **Agent Contracts**

For year end 1996 the Company's national marketing force consisted of 32 agencies with 525 career agents, 1500 brokers, 437 general agents and 1005 sub agents. For the state of Washington there were 178 appointed agents.

The Company utilizes 6 types of agent contracts. These contract types are: an Agent's Agreement, a Corporate Career Agent's Contract, a Regional General Agent's Contract, a Retired Agent's Contract, a Brokerage Contract and a District General Agent's Contract.

There are 2 types of bonuses available which apply to the above referenced contract types. These bonus types are a Performance Bonus and a Persistency Bonus. The Performance Bonus is based upon production volume and persistency. The Persistency Bonus is based solely upon persistency.

Neither the contracts listed above nor their commission schedules contained language nor compensation reflective of providing incentives that would tend to encourage internal replacements.

**STANDARD 8 – Agent contracts and commission schedules do not contain language that encourages internal replacements.**

**RESULT: The Company met this standard.**

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## **Washington Agent Oversight**

### **Agent Disciplinary Procedures**

There is an RVP who oversees agents in Washington. The RVP is responsible for recruiting, agency development and growth. There is one Career General Agent who is responsible for day to day operations. A Company Training Director assists with training programs for new and experienced agents.

The Agent Disciplinary Procedures were found in the section of the Company Policy and Procedures Manual concerning Replacement of Life Insurance and Annuities. When asked for specific agent disciplinary procedures, the Company stated "the disciplinary procedures outlined in the replacement procedures document is intended to be a general framework for implementing all types of corrective or disciplinary actions against our field force." That framework consists of:

- letters sent to the agent outlining the Company's concerns
- formal notices sent to the agent
- audits of files and or policies submitted
- official letter of reprimand
- loss of awards, reduction in convention or production award credits, reduction in commissions, fines, suspension or contract termination.

The Company states that it had no disciplinary actions against Washington agents during the exam period.

**STANDARD 9 – The Company has and follows written procedures for disciplining agents and that actions are documented.**

**RESULT: The Company met this standard.**

### **Agency Licensing & Appointments**

As the Company's block of business issued in Washington during the examination period was relatively small (3,725 policies), all the policy records were checked for valid agent licenses and appointments.

During the exam period, the Company allowed agents to write single applications without an appointment. They have a One Case Agreement form (#2766-111 R10/93). The purpose of this form is to allow agents to submit one application to the company without the company

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appointing that agent to write business for them. The agent must be licensed in the state where they are doing business. When questioned about this procedure, the company stated "To AML's knowledge, the only state that required an appointment by the company was California." The Company states that one case agreements are rarely used, perhaps 6 to 8 times per year, and are no longer used in states which require appointment prior to solicitation of business.

In reviewing policy files, we found one application written by an agent under a One Case Agreement (Policy 0023402110). The agent was not appointed with AmerUs prior to taking the application. The Company was not able to produce a listing of all policies issued under this type of agreement, as their agent system does not contain the type of contract for each agent. The use of a One Case Agreement is an acceptable agent contract form. However, the use of this form does not replace the legal requirement of RCW 48.17.010 that all agents must be appointed prior to soliciting business on behalf of the Company.

There were 4 policies written by 2 agents who were neither licensed nor appointed with the Company at the time the applications were taken. To take an application without being licensed with the State is a violation of RCW 48.17.060. There were 2 policies written by 2 agents who were licensed but not appointed with the Company at the time the applications were taken. One agent, Terry Goble, was licensed for life only when the original paperwork was submitted for his appointment. Because the Company is licensed for life and disability, the agent must be as well. Mr. Goble's appointment was rejected until he passed his disability exam. The Company states that they were not aware of this requirement in Washington State or the agent would not have been allowed to solicit business until the disability exam was successfully completed. See Appendix C.

**STANDARD 10 – Agents representing the Company have been appointed prior to soliciting applications on behalf of the Company, RCW 48.17.010.**

Number of agents	178
Number reviewed	178
Violations	6
Percentage	3.4% (0 tolerance)

**RESULT: The Company did not meet this standard.**

The Company reported a total of 128 agent terminations during the examination period. This is consistent with OIC records. Of these 128 terminations, none were reported for cause.

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**STANDARD 11 – All agents that have been terminated by the Company for cause have been reported terminated to the OIC.**

**RESULTS: The Company met this standard.**

### **Complaint Handling Procedures/Complaints**

The Company provided a 14 page document entitled "Complaints: Complaint Handling Guidelines 8-20-98." When asked to provide procedures in effect during the examination period, the Company stated "Procedures are the company's current formal written policies and procedures and were applicable to the period under examination." The Company advised that no prior written complaint procedures were available for review. Subsequently, the Company was able to locate and provide copies of complaint handling procedures dating from 1987 and revisions to those procedures dating from 1990. Also provided were complaint forms dating from 1986.

The procedures indicated that a complaint must be responded to with 10 working days from its receipt and detailed how to identify a complaint. Detailed instructions were provided for completing the complaint form as well as the routing instructions for the completed forms. A memo dated December 6, 1990 indicated that management reports were to be generated from the complaint files on a monthly basis. An online complaint register was instituted in 1994. The system processing of complaints was further defined in March of 1995.

*Subsequent Event: In 1998 the Company adopted procedures for complaint handling that incorporated the NAIC Model Regulation for Complaint Records and the NAIC definition of complaints. In addition, the Company has a Complaint Committee that monitors complaints received by the Company. This Committee meets quarterly to review trends in complaints, to develop methods to curtail any trends detected and to review handling procedures.*

**STANDARD 12 – The Company had and followed written complaint handling procedures.**

**RESULT: The Company met this standard.**

One agent appears in 6 of the 31 documented complaints in the Company's complaint log. The Company was asked if these appearances triggered any additional actions on the part of the Company, such as any investigation, supplemental training, reprimand or any other documented concern. The Company responded that they "have not found any evidence of any specific actions taken against this agent resulting from the complaints."

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The agent appearing 6 times was agent # 66211. Three of the complaints involved the agent implying that the client's existing coverage was not as good as it should have been or that it was the wrong coverage for the individual. According to the home office, on 2 of these 3 occasions the agent was wrong in his representations. The other 3 complaints involved the need for additional premium payments necessitated by a decrease in the dividends caused by a decrease in the interest rate.

**STANDARD 13 – The Company monitors complaint records for trends and has a formal procedure for reporting trends to management.**

**RESULT: The Company meets this standard.**

The Company complaint log shows an average complaint resolution time of 13.7 calendar days. One complaint took 90 plus days to resolve. Except for the appearance of one agent in 6 complaints, the review of the complaint files was unremarkable.

The complaint log for the exam period contained 31 entries. Of the 31 complaints, policy files were reviewed on 11 or 35%. It would appear that the Company responds in a timely and appropriate manner. While there is a significant amount of file documentation, specific complaint forms or common formats are not always used.

**STANDARD 14 – The Company responds to OIC complaints within 15 business days (WAC 284-30-650) and shows good faith in resolving the complaints within 15 business days.**

Total number of Complaints	31
Policy files reviewed	11
Number outside of 15 day turnaround	0
Percent outside of 15 day turnaround	0% (within 5% tolerance limit).

**RESULT: The Company meets this standard.**

### **Replacement Practices**

The Company provided the examiner with a document entitled "Replacement of Life Insurance and Annuities." The document is not dated, but the Company stated "Procedures are the company's current formal written policies and procedures and were applicable to the period under examination." The Company advises no prior written replacement procedures are available. The guide appears to be a field guide as to what replacement is and the consequences of non-compliance. The Company was then asked to provide it's home office procedures for

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replacement processing. The Company responded by providing a five page grid of state requirements.

Subsequently, replacement procedures relative to the examination period were located and provided for review. The procedures were dated March 1988 and were excerpted from the Manual of Instruction for Agents. The procedures define replacement and indicate the agents responsibility for knowledge of and compliance with the various state regulations and includes a chart outlining them on a state by state basis.

A random sample of 100 policy files was selected using NAIC approved sampling techniques. Of this sample, the Company could not produce 5 files. During this process the Company also informed us that in June of 1998 they had a Triennial Exam by the Iowa (the Company's state of domicile) Department of Insurance. The Company states that they only have to retain logs from exam to exam. Therefore, they did not have some of the records requested.

The average time from the date the application was received at the home office (determined by date stamp or policy input printout date) until the required notification letter was sent was 14 business days. The notification time required by WAC 284-23-455(2)(b) is three (3) days from the date the application is received in the home office. (see Appendix A).

Of the 95 sample files reviewed, 27 indicated their source of business as replacement of an existing life policy or annuity.

Of these, 12 did not contain copies of the replacement form. This action violates WAC 284-23-455(2)(a), which requires agents to submit a completed replacement form with each application. One (1) policy file did not contain a copy of the notification letter sent to the existing company. This is a violation of WAC 284-23-455(3).

One (1) policy file had an application dated June 14, 1994 and the replacement forms dated June 15, 1994. This is a violation of WAC 284-23-440(2)(a).

Two (2) policy files show that they were replacement, but they do not appear on the Company's replacement logs. This violates WAC 284-23-455(3) which requires that all replacements be entered into the Replacement Log and kept on file from exam to exam.

As summary of these violations appears in the following table.

<b>Code Section</b>	<b># Sampled</b>	<b># Violations</b>	<b>Policy Number</b>
WAC 284-23-455(2)(a)	27	12	See Appendix D

WAC 284-23-445(3) (Missing replacement letter copies)	27	1	2310585151 000146110B
WAC 284-23- 440(2)(a)	27	1	0823264690
WAC 284-23-455(3)  (Not entered in log)	27	2	2303071871  2301587769

**STANDARD 15 – The Company’s replacement procedures are in writing and are consistent with the Washington Replacement Regulations.**

Policy files reviewed	27
Files in violation	
WAC 284-23- 455(2)(a)	12
WAC 284-23-445(3)	1
WAC 284-23-440(2)(a)	1
WAC 284-23-455(3)	2
Total violations	16
Percent in violation	59.25 % (Outside 5% tolerance)

**RESULT: The Company did not meet this standard.**

Of the 68 agents reviewed relative to the number of applications they had written and the source of that business, 11 had replacement as the source of more than 20% of the applications they had written. Further review of these 11 agents reduced the number to 2 who had excessive (greater than 30%) replacement application volumes relative to the specific time period of the exam. Appendix B provides a listing of these agents.

**STANDARD 16 – Number of replacements for any one agent in any calendar year should not be significant (<1 per month, combined internal and external replacements).**

**RESULT: The Company did not meet this standard.**

The Company needs to effectively utilize its procedures to monitor and track replacement trends. Justification for this is evidenced by Appendix B. 2.9% (2 of 68) agents reviewed had replacement as the source of more than 30% of the applications they wrote during the

exam period. There is no indication that the Company took any action nor made any inquiries into the

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business practices of these agents.

**STANDARD 17 – The Company has identified patterns of replacements by individual agents such as moving policies in and out of the company at regular intervals, replacement of large blocks of business, moving funds from one policy to another.**

**RESULT: The Company did not meet this standard.**

*Subsequent Event: The Company has stated that it has instituted a modification of its replacement log to meet the requirements of the new NAIC Model Replacement Regulation. The Company contends that this "dynamic, database driven log will allow the Company to monitor even more closely agent activity in the replacement area."*

### **Policy File Review**

The number of Washington policies in force as of 12/31/96 was 10,902. The total number of policies issued in Washington from 1/1/92 to 12/31/96 was 3,725. From the 3,725 issued policies, 100 policy files were requested from the Company. The files provided were reviewed with emphasis on the following areas:

- Was the application properly signed by both the applicant/owner and agent?
- Was the agent appointed by the Company and licensed by the state when the application was signed?
- Was replacement of an existing contract involved and if so were the proper replacement forms completed? If an external replacement, was proper notification provided to the existing company?
- Were existing policy values used to pay the premium on the new policy?

On policy number 2301603488 the insured did not sign the application and the validity of the contract is at issue. This is a violation of WAC 284-23-440(a). Review of policy records did not indicate a pattern of old policies being used to fund new policies. The remaining specific findings of this review are incorporated into the sections of this report entitled Replacement Practices and Agency Licensing/Appointments.

### **Regulatory and Legal Actions**

A review of the regulatory actions taken by other states within the last 5 years indicates 3 actions. These actions are summarized below.

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1. State of Florida, 1998 – Consent Order – The Company issued three annuity policies in Florida on forms that had not been filed in Florida. A fine of one thousand dollars was assessed.
  2. State of Texas, 1997 – Cozad Class Action Settlement – This negotiated settlement involved approximately 133,000 traditional whole life policies issued nationwide from January 1980 through December 1994. The action alleged that the Company used improper sales practices, the improper use of vanishing premium illustrations, improper replacement of existing policies and the sale of life insurance as an investment. The estimated value to be received by class members was \$4,000,000 with an additional \$3,000,000 in attorney's fees to class counsel.
  3. State of Texas, 1995 – Consent order contending that AmerUs Life f/k/a American Mutual Life misrepresented the terms, benefits or advantages of its policies; made statements that misrepresented policy terms and benefits and advantages of life insurance policies; engaged in unfair and deceptive acts and practices in the business of insurance and represented the nature of benefits and coverage of policies in a manner which had the tendency or capacity to mislead insurance consumers in reference to 109 policies. Penalty of \$5,000 assessed and consumers given options regarding policies.
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## **Summary**

AmerUs Life, through its institution of a Compliance Department in late 1996 and the formation of a Complaint Committee in mid 1997 has demonstrated an awareness of the need to monitor business practices and complaints on an on going and managed basis.

Historically, the Company would have gained benefit from an earlier institution of its current practices. While complaints were handled in a timely manner, one agent accounted for six (6) of 31 complaints without any documented action on the part of the Company to reprimand, retrain or counsel the agent relative to his business and sales practices.

During the Company's merger, agent licensing was an area, according to the examiner's record review, which could have been afforded greater oversight and control. The Company has restricted the use of their One Case Agreement to states that do not require appointment prior to solicitation. Indications are that controls are now in place to ensure that proper appointments and licenses are obtained by agents.

The Company would now appear to have adequate procedures in place to monitor agent activity. However, unless the Company takes an active role in monitoring agent activity, it is of little consequence to have a procedure in place.

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## **AmerUs Life Instructions**

1. The Company had one piece of advertising that was in violation of WAC 284-23-040(2) and (3). They are instructed to review current advertising materials and to discontinue any advertisement that may, in fact or by implication, have the capacity or tendency to mislead or deceive. (Page 9).
  2. The Company is in violation of WAC 284-23-455(2)(b) and is instructed to institute procedures to provide a notification letter to the existing company to be replaced within a 3 day time frame from the time the application is received in home office until the notification letter is sent to the existing company. (Page 18, Appendix A)
  3. The Company is in violation of WAC 284-23-455(3) and is instructed to make certain replacement policies are appropriately entered on their replacement logs and that copies of the notification letters are maintained with the replacement log. (Page 18, 19)
  4. The Company is in violation of WAC 284-23-455(2)(a) and is instructed to require agents to submit a completed replacement form with each application that is replacing existing coverage with another company. (Page 18, 19)
  5. The Company is in violation of WAC 284-23-440(2)(a) and is instructed to require that agents to complete a replacement form when taking an application that is replacing existing coverage at the time the application is taken, not afterwards. (Page 18)
  - 6) The Company is in violation of RCW 48.17.010 and is instructed to make certain all agents are appointed with the State of Washington prior to soliciting applications on behalf of the company. (Page 15)
  7. The Company is in violation of RCW 48.17.060 and is instructed to make certain all agents are licensed with the State of Washington prior to soliciting applications on behalf of the Company. (Page 15)
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## **AmerUs Life Recommendations**

1. It is recommended that the Company institute a monitoring system to track the source and amount of replacement business from any given agent and to have disciplinary procedures established if a significant source of a given agent's business is replacement.

2. It is recommended that the Company indefinitely retain a copy of the agent's license and appointment papers.
3. It is recommended that the "Manual of Instructions for Agents", page C-13, be revised to include a reference to the need to follow state specific replacement requirements when using existing policy values to pay premium on new policies. Although the Manual does contain instructions on replacement requirements in a separate section, there is not a cross reference to that section.

<b>APPENDIX A – AMERUS LIFE</b>				
<b>TIMING OF REPLACEMENT NOTIFICATION [WAC 284-23-455(2)(b)]</b>				
<b>POLICY NUMBER</b>	<b>COMPANY</b>	<b>DATE APP RECEIVED</b>	<b>DATE NOTICE SENT</b>	<b># DAYS</b>
0023264690	Central	6/15/94	8/9/94	38
2301584369	AML	9/15/92	9/23/92	6
2303070072	AML	3/5/93	3/19/93	10
000146110B	AML	11/9/95	11/22/95	8
2301588864	AML	3/8/93	3/16/93	6
0050027650	AmerUs	10/25/96	11/1/96	5
2301590315	AML	4/22/93	4/29/93	5
2301606711	AML	3/30/95	6/12/95	51
0023057440	Central	4/19/93	4/27/93	6
2301580419	AML	4/10/92	5/11/92	21
2301589150	AML	3/15/93	3/24/93	7
2301606478	AML	3/8/95	3/27/95	13
2301589214	AML	3/18/93	3/26/93	6

<b>APPENDIX B – AMERUS LIFE</b>					
<b>Agents With &gt;30% Replacements</b>					
<b>Agent Name</b>	<b>Agent Number</b>	<b># Replacements</b>	<b># Applications</b>	<b>% Replacement</b>	<b>Date Agent Licensed</b>
Clifford, Richard G	60197	29	25	116%	1015-93 to 12/7/95;  2/29/96 to present
Fernandez, Michael	66211	50	144	35%	2/10/87 to present

<b>APPENDIX C – AMERUS LIFE INSURANCE COMPANY</b>					
<b>LICENSING VIOLATIONS</b>					
<b>Agent</b>	<b>Policy Date</b>	<b>Policy Number</b>	<b>Licensed</b>	<b>Appt at Time of Sale</b>	<b>Appt Date</b>
Goble, Terry W.	9/1/95	23413510	No	No	9/18/95
	9/1/95	2301610866	No	No	
	9/1/95	2301611120	No	No	
Rosseau, Richard D.	2/7/94	23201930	No	No	None

Ponder, Mark E.	9/21/94	23298030	Yes	No	9/22/94
Thiessen, Glen A.	8/20/93	2301593605	Yes	No	9/10/93

## **APPENDIX D**

### **REPLACEMENT POLICIES WITH NO COMPLETED FORMS**

The following policy files did not contain replacement forms:

2301584369	2303070072	2301598716
2303068597	2301588864	0023248760
2301590315	2301585151	0023302340
2301580419	2301589150	00028012250